IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.22137 & 22987 of 2004

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WRIT PETITION No: 22137 of 2004

Between:

K. Narasimha Rao, S/o. Sri. K. Subbaiah,
Tenali, Guntur District.

..... PETITIONER

AND

1 The State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Labour, Employment and Training Department, Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner of Labour, Government of A.P., Near RTC X Roads, Narayanguda, Hyderabad.
3 The Deputy Commissioner of Labour, Government of Andhra Pradesh,16/1, Arundelpet, Guntur.
4 Smt. A. Gayatri Devi, (W/o. and age not known to the Petitioner) Narsaraopet, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an Order or direction more particularly one in the nature of Writ of Certiorari: (a) By calling for the records relating to and connected with order and judgment rendered in OA 6155 of 1995 dated 13-3-2003 on the file of the A.P. Administrative Tribunal, Hyderabad and quash or set aside by holding the same as erroneous and unsustainable; (b) Also declare Rule 3 of the Andhra Pradesh Labour Subordinate Service Rules to the extent it provides for the promotion to the categories of Health Visitor/Nursery School Teacher, Craft Instructress, Games Supervisor, Adult Education Teacher including Workers Education Teachers and Audio Visual Incharge as Assistant Labour Officers as arbitrary and offends Article 14 and 16 of the Constitution; (c) In the alternative, read down the effect of Rule 3 of the Andhra Pradesh Labour Subordinate Service that was prescribed in G.O.Ms.No.14, L.E. & T.E. Department (Lab.IV) Department dated 26-11-1994 as to mean that the Labour Welfare Staff who have been included in categories 2 to 7 of the said Service as a source of recruitment for purposes of promotion as Labour Welfare Organizers only, but not eligible for promotion as Assistant Labour Officers; (d) Direct the respondents 1 to 3 to review the case of the petitioner for promotion to the post of Assistant Labour Officer notionally on par with unofficial respondent i.e., the date on which the unofficial respondent was so promoted as Assistant Labour Officer with all consequential benefits that flow from out of such notional promotion.

Counsel for the Petitioners: MR.NUTY RAM MOHAN RAO

Counsel for the Respondents: GP FOR SERVICES I

WRIT PETITION No: 22987 of 2004

Between:

1 B.N.L.Kameswari W/o. N.Krishna Prasad
O/o Labour Officer Satyaranayanapuram, Vijayawada, Krishna District.
2 G.V. Subba Rao S/o. Late Kotaiah
O/o. Deputy Commissioner of Labour Ashok Nagar, Eluru, West Godavari District.
3 Ch.V.subba Rao, s/o. Late Chandraiah
O/o Deputy Commissioner of Labour Ashok Nagar, Eluru, West Godavari District.
4 K.S.N.Malleswara Rao S/o.Narayana Murthy
O/o Labour Officer Amalapuram College Road, East Godavari District.

..... PETITIONERS

AND

1 The State of Andhra Pradesh rep. by its Principal Secretary to Government Labour, Employment and Training Department Secretariat Buildings, Saifabad, Hyderabad.

2 The Commissioner of Labour, Government of A.P., Near RTC X Roads, Narayanguda, Hyderabad.
3 The Deputy Commissioner of Labour Govt., of A.P., 16/1, Arundelpet, Guntur.
4 Smt. A.Gayatri Devi, W/o.and age not known to the petitioner working as Assistant Labour Officer
Narsaraopet, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of Certiorari; a). By calling for the records relating to and connected with order and Judgment rendered in OA 6155 of 1995 dated 13.3.2003 on the file of the A.P. Administrative Tribunal, Hyderabad and quash or set aside by holding the same as erroneous and unsustainable; b) Also declare Rule 3 of the Andhra Pradesh Labour Subordinate Service Rules to the extent it provides for the promotion to the categories of Health Visitor/Nursery School Teacher, Craft instructress, Games Supervisor, Adult Education Teacher including workers Education Teachers and Audio Visual Incharge as Assistant Labour Officers as Arbitrary and Offends Article 14 and 16 of the Constitution; c) Direct the respondents herein not to grant the promotion to any of the aforementioned categories of employees as Assistant Labour Officers in accordance with the orders (Rules) promulgated through G.O.Ms.No.14 Labour Employment and Technical Education (Labour-IV) Department Dt.26.11.1994. d) In the alternative, read down the effect of Rule 3 of the Andhra Pradesh Labour Subordinate Service that was prescribed in G.O.Ms.No.14, L.E. and T.E Department (Lab.IV) Department Dated 26.11.1994 as to mean that the Labour Welfare Staff who have been included in categories 2 to 7 to the said service as a source of recruitment for purposes of promotion as Labour Welfare Organisers only, but not eligible for promotion as Assistant Labour Officers; e) Also direct the respondents 1 to 3 to refrain from considering the cases of any of the Labour Welfare Staff for promotion as Assistant Labour Officers.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondents: GP FOR SERVICES I

The Court made the following:

ORAL ORDER:- (PER GB,J.)

Both the Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 13.03.2003, passed by the A.P. Administrative Tribunal in O.A.No.6155 of 1995.

2. The petitioners are the applicants before the Tribunal. They challenged Rule-3 of the A.P. Labour Subordinate Service Rules to the extent it provides for the promotion to the categories of Health Visitor/Nursery School Teacher, Craft Instructress, Games Supervisor, Adult Education Teacher including workers Education Teachers and Audio Visual Incharge as Assistant Labour Officers. The Tribunal after considering the matter, dismissed the O.A. by observing as follows:

> "The framing of special rules and identification of various categories of posts, as channels of promotion cannot be generally interefered with by the courts, as it is a matter of executive domain. More over, the special rules were framed based on the recommendations of the one man commission appointed for the purpose of upgrading service rules. Out of 10 slots in the feeder categories, only one slot is allotted for employees of welfare centers, rest of them being thrown open to Ministerial Staff. The staff of the Labour Welfare Centres are also having the minimum general educational qualifications for the required post. More over, providing of opportunities of promotion for each and every employee is also in the direction of framing appropriate service rules by an ideal employer viz., Government.
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> In view of what is stated above, it is felt that it is not a case fit to be interfered with by the Tribunal. The O.A. is therefore, devoid of any merit and is liable to be dismissed and accordingly the same is dismissed."

3. Learned counsel for the petitioners, Mr. Nooty Ram Mohan Rao, submits that the very inclusion of the said categories is illegal and contrary to law. The candidates,

who belong to the said categories, not only do not possess the qualifications required for the post of ALO, but also their very entry will not help the organization in healthy manner. There must be a nexus for providing the promotional channel to these categories other than the persons employed in the Labour Welfare Centres, and therefore, the learned counsel would submit that the order of the Tribunal is liable to be set aside and giving appointments as ALO to the persons employed in the Labour Welfare Centres may be declared as illegal and un-constituted one.

4. We have heard the learned Government Pleader also.

5. We are unable to appreciate the contentions raised by the learned counsel for the petitioners.

6. The Rules were framed under the proviso to Article 309 of the Constitution of India. It is for the rule framing authority to provide the promotional opportunities to various categories of employees. In some cases, the opportunities are provided by promotion, and in some cases, the opportunities are provided by appointment on transfer from other services. Under those circumstances, it is not appropriate for the petitioners to challenge the provisions relating to appointment or promotion from other services.

7. Thus, we do not find any merit in both the Writ Petitions and accordingly the same are dismissed. No costs.

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G. BIKSHAPATHY, J.

P.S. NARAYANA, J.

To

1 The Principal Secretary to Government, State of Andhra Pradesh, Labour, Employment and Training Department, Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner of Labour, Government of A.P.,
Near RTC X Roads, Narayanguda, Hyderabad.
3 The Deputy Commissioner of Labour, Government of Andhra Pradesh, 16/1, Arundelpet, Guntur.
4 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT).

5 2 CD copies.